

DAVID L. ANDERSON (CABN 149604)  
United States Attorney

HALLIE HOFFMAN (CABN 210020)  
Chief, Criminal Division

WILLIAM FRENTZEN (LABN 24421)  
CHRISTIAAN HIGHSMITH (CABN 296282)  
Assistant United States Attorneys

450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102-3495  
Telephone: (415) 436-7200  
FAX: (415) 436-7027  
christiaan.highsmith@usdoj.gov  
william.frentzen@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	No. CR 15-529-CRB
	)	
Plaintiff,	)	UNITED STATES' PRETRIAL CONFERENCE
	)	STATEMENT & TRIAL BRIEF
v.	)	
	)	Pretrial Conference: October 1, 2019
WING WO MA,	)	Trial Date: October 15, 2019
	)	
Defendant.	)	

The United States respectfully submits its Pretrial Conference Statement and Trial Brief in the above-captioned matter.

**BACKGROUND**

This case has been set for trial six times. The Court is familiar with the history of this case. Defendant Wing Wo Ma is charged in the Third Superseding Indictment with conspiracy to manufacture and to distribute and to possess with intent to distribute 100 or more marijuana plants, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B), and 846 (Count One); possession of a firearm in furtherance of, and use, carrying, and discharging a firearm during and in relation to, and in furtherance of, the drug trafficking conspiracy charged in Count One, in violation of 18 U.S.C. § 924(c)(1)(A) (Count Two); use of a

firearm causing murder, in violation of 18 U.S.C. § 924(j) (Count Three); and conspiracy to commit honest services wire fraud and bribery, in violation of 18 U.S.C §§ 371, 666, 1343, and 1346 (Count Four). ECF No. 144. The United States anticipates that this trial will last five weeks.

**JENCKS, BRADY, AND GIGLIO DISCLOSURES (Crim. L.R. 17.1-1(b)(1-3))**

The United States has complied, and will continue to comply, with its discovery obligations under *Brady*, *Giglio*, and the Jencks Act, 18 U.S.C. § 3500, and Federal R. Crim. P. 26.2. The government has already produced discovery including reports summarizing witness statements, transcripts and recordings of prior witness statements, and grand jury testimony of prior witness statements.

The United States believes that it has supplied all materials that may be relevant as *Brady* material, and recognizes its obligation to continue to provide any such materials within its possession, custody, or control. The government also understands its continuing duty to comply with Rule 16, and will do so.

**STIPULATIONS (Crim. L.R. 17.1-1(b)(4))**

The parties continue to discuss possible stipulations that would eliminate inefficient testimony regarding undisputed facts. Should the parties reach stipulations, the estimated trial length could be reduced.

**NEED FOR INTERPRETERS (Crim. L.R. 17.1-1(b)(5))**

The United States will arrange for interpreters for witnesses it calls in its case in chief, which currently include Cantonese and Vietnamese language interpreters. The government will provide the defense with information about the interpreters' qualifications as those interpreters are identified and before they are called to act as interpreters during trial.

**DISMISSAL OF COUNTS / ELIMINATION OF ISSUES (Crim. L.R. 17.1-1(b)(6))**

The United States does not currently intend to dismiss any of the four counts in the Third Superseding Indictment.

///

///

///

**1 JOINDER / SEVERANCE (Crim. L.R. 17.1-1(b)(7))**

2 There are no joinder or severance issues.

**3 IDENTIFICATION OF INFORMERS / PRIOR CONVICTIONS (Crim. L.R. 17.1-1(b)(8))**

4 Issues related to defendant Ma's three prior misdemeanor convictions are the subject of a  
 5 motion *in limine* by the defense. The government does not currently intend to offer any evidence of  
 6 the defendant's prior convictions in its case in chief, though the defendant could open the door to  
 7 such evidence through his own testimony depending on the substance of the testimony.

8 The defense has not disclosed any witnesses it intends to call at trial. If the defense  
 9 identifies such witnesses, the government may seek to admit prior convictions of the witnesses that  
 10 are relevant for impeachment purposes.

**11 WITNESSES (Crim. L.R. 17.1-1(b)(9))**

12 On September 12, 2019, the United States filed the Third Revised Witness List. ECF No. 159.  
 13 The government respectfully reserves the right to amend the list prior to and during trial as necessary.

**14 EXHIBITS (Crim. L.R. 17.1-1(b)(10))**

15 On September 12, 2019, the United States filed the Second Revised Exhibit List. ECF No. 158.  
 16 The government respectfully reserves the right to amend the list prior to and during trial as necessary.

**17 OBJECTIONS TO EVIDENCE (Crim. L.R. 17.1-1(b)(11))**

18 The United States may raise evidentiary objections to exhibits and testimony offered by the  
 19 defense as notice of such exhibits and testimony are disclosed to the government.

**20 LEGAL ISSUES (Crim. L.R. 17.1(b)(12))**

21 The United States reserves the right to proceed at trial on all available theories of defendant Ma's  
 22 liability. These theories of liability include, but are not limited to, aiding and abetting liability and  
 23 *Pinkerton* liability.

**24 SCHEDULING/JURY SELECTION/JURY INSTRUCTIONS (Crim. L.R. 17.1-1(b)(13)-(14))**

25 Jury selection is set for October 10, 2019, at 9:15 a.m. The United States has already filed its  
 26 proposed Juror Questionnaire. ECF No. 160. The government previously filed joint proposed jury  
 27 instructions and a proposed verdict form. ECF Nos. 107 & 108. The government will be filing revised  
 28 proposed jury instructions and a revised proposed verdict form shortly. The government reserves the

1 right to amend those filings at any time prior to and during the trial if necessary.

2  
3 DATED: September 27, 2019

Respectfully submitted,

4 DAVID L. ANDERSON  
5 United States Attorney

6 /s/  
7 WILLIAM FRENTZEN  
8 CHRISTIAAN HIGHSMITH  
9 Assistant United States Attorneys  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28